

D/L- 42
06/08/2025
Ct. No.-6
Aritra

C.O. 2817 of 2025

**Smt. Mita Lahiri & Anr.
Vs.
Sri Prodip Kumar Dass**

Mr. M.R. Sarbadhikari

...for the petitioner

By the order impugned, the prayer of the substituted defendant to file a written statement upon being substituted under the provisions of Order 22 Rule 4 of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that the original tenant died on August 19, 2019 and upon his death the petitioner No.1 being the widow is entitled to stay in the suit property during her lifetime in view of the provisions under Section 2(g) of the West Bengal Premises Tenancy Act, 1997. The petitioner No.2 is the son of the deceased tenant.

After going through the provisions of Section 2(g) of the 1997 Act this Court finds that upon the death of the original tenant the son ordinarily living with the tenant up to the death of the tenant as the member of his family and were dependent on him who do not own or occupy any residential premises can continue in possession for a period not exceeding 5 years from the date of death of the tenant. However, the aforesaid period of 5 years from the date of death of the original tenant has already expired.

Thus, the petitioner No.2 cannot take the benefit of the provisions of Section 2(g) of the 1997 Act for continuing in possession as a tenant beyond of period of 5 years from the date of death of the tenant.

After going through the written statement sought to be filed by the substituted defendants, this Court finds that the same was a joint written statement filed by the substituted defendant. The substituted defendants cannot take the same stand as they do not stand on the same footing in the light of the provisions laid down under Section 2(g) of the 1997 Act upon the death of the original tenant.

For such reason this Court is not inclined to interfere with the order impugned.

Accordingly, CO 2817 of 2025 stands disposed of. However, this order shall not prevent the petitioner No.1 from taking appropriate steps in accordance with law.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)